

TECHNICAL MEMORANDUM

Utah Coal Regulatory Program

December 18, 2003

TO: Internal File

FROM: Priscilla Burton

RE: Response to Condition #2 (Permit Transfer), Hidden Splendor Resources, Horizon Mine, C/007/0020, Task #1747

SUMMARY:

The Horizon Mine permit was transferred from Lodestar Energy, Inc. to Hidden Splendor Resources, Inc on July 1, 2003. Attachment A of the Permit reads as follows:

Attachment A Conditions

Condition #1 Hidden Splendor Resources, Inc. will submit water quality data for the Horizon Mine in an electronic format through the Electronic Data Input web site, <http://hlunix.hl.state.ut.us/cgi-bin/appx-ogm.cgi>.

Condition #2 Hidden Splendor Resources, Inc. will update the appropriate sections of the mining and reclamation plan with the permit transfer information by August 1, 2003.

The Division has extended the deadline for response to Condition #2 to October 15, 2003 (Outgoing Folder, letters dated August 1, 2003 and September 12, 2003).

As detailed below, the application does not completely fulfill the requirements of Condition #2. Deficiencies have been identified in the submittal.

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TECHNICAL ANALYSIS:

GENERAL CONTENTS

IDENTIFICATION OF INTERESTS

Regulatory Reference: 30 CFR 773.22; 30 CFR 778.13; R645-301-112

Analysis:

Chapter 2 identifies the permit applicant and mine operator as Hidden Splendor Resources, Inc., a Nevada corporation. Although the permit application listed the corporation with a Reno, Nevada address, the corporation is now headquartered in Salt Lake City. The principal officers own 100% of Hidden Splendor Resources, Inc. Hidden Splendor Resources, Inc does not own or control any other mining operations.

The resident agent is identified as Nevada Agency & Trust Company, Inc. with a Reno, Nevada address provided (page 2-2). This designation is at odds with the information provided under the permit transfer application.

Names addresses and phone numbers are supplied for the corporations listed and for the individuals who control the applicant. However, social security numbers and employer identification numbers are not supplied. The requirement for this disclosure is clearly written in the Regulations, although to protect the individuals' identities from theft, the Division allows that social security information need not be supplied. The employer's identification number should be provided and may be kept in a confidential folder, if requested.

The abandoned mine reclamation fee will be paid by Cecil Ann Walker, President of Hidden Splendor Resources, Inc.

Findings:

The information provided by the Permittee is not adequate to meet the requirements of the regulations. Prior to approval, the Permittee must provide the following in accordance with:

R645-301-112.220, (1) The resident agent must agree with the information provided under permit transfer. (2) The employer identification number must be provided, and may be kept confidential if requested.

VIOLATION INFORMATION

Regulatory Reference: 30 CFR 773.15(b); 30 CFR 773.23; 30 CFR 778.14; R645-300-132; R645-301-113

Analysis:

Violation information for the mine is discussed in Section 113 (p 2-6) and in Appendix 2-4 (revised and submitted with the permit transfer application).

Findings:

The information provided by the Permittee meets the requirements of the Regulations.

RIGHT OF ENTRY

Regulatory Reference: 30 CFR 778.15; R645-301-114

Analysis:

The disturbed area boundary includes 8.23 acres, but the bonded area covers 9.15 acres (page 2-8). The disturbed area is located in T13S, R8E Section 17.

Right of Entry information is provided in Sections 112 through 114 (page 2-6). The narrative on this page inaccurately states that the right of entry is based on a lease from Hidden Splendor Resources, Inc. This is not the case. Right of entry is based on the documents provided in the revised Appendix 2-1 submitted with the permit transfer application:

- Assignment from Lodestar by its Chapter 11 Trustee,
- Designation of Operator executed by Lodestar and
- Federal Lease UTU-74804 (which includes the Right of Way grant SL 063011, allowing passage through USA BLM lands).

This application should contain the exact wording approved by the permit transfer, but it does not. (This application should be a “clean” copy of the redline/strikeout information submitted for permit transfer, see deficiency written under Permit Application Format and Contents section of the TA).

The permit boundary is shown on Plate 1-1. The permit boundary remains unchanged from the time of Lodestar ownership.

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Surface owners shown on Plate 4-2 within the permit area include Hidden Splendor Resources, Inc; the USA; Ray M. and Tessie K. Farley; and J. Mark and James C. Jacob. For the Farley and Jacob lands, the application must include documents indicating written consent of the surface landowner, as required by R645-301-114.200.

Only part of the lands described on lease UTU-74804 containing 1,288.49 acres, more or less, are included in the permit area as described on page 2-6 and 2-7 and shown on Plate 1-1.

As shown on Plate 4-3, the lease area shown in the center of Section 8, T13S, R8E, appears to have dual ownership between Hidden Splendor Ltd. and the federal government.

Findings:

The information provided is not adequate to meet the requirements of the regulations. Prior to approval, the Permittee must provide the following in accordance with:

R645-301-114.100, Plate 4-3 Coal Ownership must clearly show the location of expired lease SL 0630311, existing lease UTU-74804, and coal owned by Hidden Splendor Resources, Ltd. Plate 4-3 must be certified (signed) by a P.E.

R645-301-114.200, For the Farley and Jacob lands shown within the permit area (Plate 4-2), the application must include documents indicating written consent of the surface landowner, as required by R645-301-114.200.

LEGAL DESCRIPTION AND STATUS OF UNSUITABILITY CLAIMS

Regulatory Reference: 30 CFR 778.16; 30 CFR 779.12(a); 30 CFR 779.24(a)(b)(c); R645-300-121.120; R645-301-112.800; R645-300-141; R645-301-115.

Analysis:

The permit area has not been designated as unsuitable for coal mining and reclamation. However, coal mining and reclamation does occur within 100 feet of County Road 290 and the Consumer Road, both public roads. Appendix 3-1 contains documentation from the Carbon County and of public notice of the mine activity near and on these roads, without limiting public access.

Findings:

The information provided meets the requirements of the Regulations.

PERMIT TERM

Regulatory References: 30 CFR 778.17; R645-301-116.

Analysis:

The Federal Permit was issued on July 1, 2003 and expires October 11, 2006. Permit transfer is governed by R645-303-300. The plan incorrectly indicates that the Horizon Mine is proposed for a 5 year term. Also Plate 3-3, Mine Plan map, indicates plans for mining through 2004.

Findings:

The information on file with the Division does not meet the requirements of the Regulations. Prior to approval, the Permittee must provide the following in accordance with:

R645-301-116.100, The statements found in Section 116 of the application must reflect the facts that the anticipated mining termination date under the existing R2P2 stipulation (Appendix 3-11) will expire with the completion of mining in 2004, as shown on Plate 3-3; and the State mining permit expires three years and three months from date of issuance.

PUBLIC NOTICE AND COMMENT

Regulatory References: 30 CFR 778.21; 30 CFR 773.13; R645-300-120; R645-301-117.200.

Analysis:

An affidavit of the public notice for the permit transfer is found in Appendix 2-2. The liability insurance policy is in effect until May 1, 2004.

Findings:

The information provided meets the requirements of the Regulations.

MAPS AND PLANS

Regulatory Reference: 30 CFR 777.14; R645-301-140.

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Analysis:

Plate 4-2 Surface ownership and Plate 4-3 Coal Ownership have been stamped by a Professional Engineer (P.E.), but the stamp has not been signed and is therefore the plates have not been certified by a P.E. In addition, Sections have not been identified on either plate.

Findings:

The information provided by the Permittee is not adequate to meet the requirements of the regulations. Prior to approval, the Permittee must provide the following in accordance with:

R645-301-141, Plates 4-2 and 4-3 require identification of Sections and signature of a P.E.

ENVIRONMENTAL RESOURCE INFORMATION

Regulatory Reference: Pub. L 95-87 Sections 507(b), 508(a), and 516(b); 30 CFR 783., et. al.

PERMIT AREA

Regulatory Requirements: 30 CFR 783.12; R645-301-521.

Analysis:

The application indicates that the permit boundary includes the Hidden Splendor Lease (now expired) and “a part of the Beaver Creek Tract coal lease UTU-74804, acquired on September 1, 1998” (p 2-6). Please correct the narrative to reflect the statements made under Section 114 in the permit transfer application, see deficiency written under Permit Application Format and Contents in the TA.

Although lease UTU- 74804 contains 1,288.49 acres, the current permit allows mining in only 711 acres.

The July 1, 2003 permit states, “The permit area of the Horizon Mine contains 711 acres, more or less, consisting of 305 acres, more or less of Fee coal and 406 acres, more or less of Federal leased coal.” (The permit acreage is also indicated on page 2-7 of the application.) Appendix 3-11 provides documentation from the BLM of the revised R2P2 for mining south of Beaver Creek, only, within lease UTU-74804.

The Permittee is aware that they must establish adequate baseline information prior to obtaining the Secretary of Interior's authorization to mine the entire lease area (meeting between Mark Wayment, Kit Pappas and the Division on October 9, 2003).

Findings:

The information provided meets the requirements of the Regulations.

RECLAMATION PLAN

BONDING AND INSURANCE REQUIREMENTS

Regulatory Reference: 30 CFR Sec. 800; R645-301-800, et seq.

Analysis:

Form of Bond

An Irrevocable Letter of Credit is filed with the Division in the amount of \$342,000, payable to the State of Utah, Division of Oil, Gas, and Mining and the Office of Surface Mining Reclamation and Enforcement.

Determination of Bond Amount

The reclamation cost is outlined in Appendix 3-7 as \$309,855 in 2001 dollars. By the year 2006, the reclamation cost will escalate to \$361,000.

Terms and Conditions for Liability Insurance

Appendix 2-2 has the liability insurance information. The insurance coverage is for a period of one year, expiring on May 1, 2004. The Division of Oil, Gas & Mining is listed as an additional insured party. The insurance coverage meets the requirements of R645-301-890.100 and -890.300.

Findings:

The information provided meets the requirements of the Regulations, but must be extended each year of the permit term.

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RECOMMENDATIONS:

The information provided does not fulfill the requirements of Condition #2 of Permit C007/020 issued on July 1, 2003. The application is not a “clean” copy of the revised redline/strikeout version of Chapter 2 that was received with the permit transfer application.

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